

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION, AT DAYTON

JOHNITA FREEMAN,

Plaintiff,

Case No. 3:20-cv-165

vs.

COMMISSIONER OF  
SOCIAL SECURITY,

Magistrate Judge Michael J. Newman  
(Consent Case)

Defendant.

---

**ORDER: (1) GRANTING THE COMMISSIONER'S THIRD MOTION FOR AN EXTENSION OF TIME (TO OCTOBER 28, 2020) IN WHICH TO FILE THE ADMINISTRATIVE RECORD (DOC. 10); (2) DIRECTING THE COMMISSIONER TO FILE THE ADMINISTRATIVE RECORD AS SOON AS IS PRACTICABLE; AND (3) ASSUMING THE ADMINISTRATIVE RECORD CANNOT BE PROMPTLY FILED, ORDERING THE COMMISSIONER TO FILE A STATUS REPORT REGARDING THIS ISSUE ON OR BEFORE OCTOBER 28, 2020 -- AND EVERY 30 DAYS THEREAFTER -- UNTIL THE RECORD IS FILED**

---

This Social Security disability case is before the Court on the Commissioner's third motion for an extension of time -- to October 28, 2020 -- in which to file the administrative record. Doc. 10. Plaintiff filed a memorandum in opposition, and the Commissioner has submitted a reply. Docs. 12, 13.

In support of the motion, the Commissioner references the affidavit of Jebby Rasputnis, Executive Director of the Social Security Administration's ("SSA") Office of Appellate Operations, who attests that while the SSA has steadily increased its capacity to produce administrative records electronically as of July 2020, the process is presently insufficient to meet the agency's workload. Doc. 10-1. Ms. Rasputnis further testifies that the SSA is working to increase its production of administrative records through procurement of additional resources to

address staffing and process issues occurring as a result of the COVID-19 global health pandemic.  
*Id.*

In response, Plaintiff asserts that due to the two prior extensions of times -- totaling 90 days -- and due to her suffering from medical and financial difficulties, the Commissioner should not be granted additional time to file the administrative record. Doc. 12. Instead, Plaintiff suggests that her case should be jointly remanded to the Commissioner. *Id.* at PageID 31. The Commissioner, at this time, opposes a joint remand, and argues that Plaintiff fails to demonstrate other circumstances, *i.e.*, new and material evidence, warranting remand. Doc. 13.

While the Court is sensitive to the desire of Plaintiff's counsel to timely and efficiently hear this matter -- as is the Court -- the Court finds that remand is not appropriate at this time. *See* 42 U.S.C. § 405(g) (permitting the Court to remand a case "on [the] motion of the Commissioner ... made for good cause shown before the Commissioner files the Commissioner's answer" or "upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding").

Accordingly, the Commissioner's third motion for an extension of time is **GRANTED** for good cause shown. The Commissioner shall file an administrative record as soon as practicable. If the administrative record cannot be filed on or before October 28, 2020, and the Commissioner shall **FILE A STATUS REPORT** on or before October 28, 2020 and every thirty (30) days thereafter until the administrative record is filed in this case.

**IT IS SO ORDERED.**

Date: October 9, 2020

s/Michael J. Newman  
Michael J. Newman  
United States Magistrate Judge